

SUMMARY ANALYSIS OF AMENDED BILL

Author: Simitian Analyst: Deborah Barrett Bill Number: SB 31
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: July 3, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Identification Documents/Privacy

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED

X June 17, 2008, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would make it a crime to read or attempt to read personal identification documents using radio waves without the owner's knowledge and consent.

SUMMARY OF AMENDMENTS

The July 3, 2008, amendments would substitute the term "radio frequency identification (RFID)", as defined, for the term "radio waves" and would make portions of the bill not applicable to persons that unintentionally remotely read RFID documents under specified instances. The "This Bill" discussion is revised. The remainder of the department's analysis of the bill as amended June 17, 2008, still applies.

POSITION

Pending.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Asst. Legislative Director

Date

Patrice Gau-Johnson

7/21/08

THIS BILL

This bill would make it a misdemeanor to intentionally read or attempt to read a person's identification documents remotely using radio frequency identification (RFID) without the owner's knowledge and prior consent. The crime established under this bill would be punishable by imprisonment in a county jail for up to one year, a fine of not more than \$1,500, or both.

A person or entity that unintentionally remotely reads a person's identification document using RFID is not subject to the provisions of the bill unless it knows it unintentionally read the document and thereafter intentionally does any of the following:

- Disclose the data to another party whose purpose is to read a person's identification document or any information derived there from, without that person's knowledge and consent.
- Use the data for the purpose of reading a person's identification document, or any information derived therefrom, without the consent of the person to whom the data pertains.
- Store the data for the purpose of reading a person's identification document, or any information derived therefrom, without the consent of the person to whom the data pertains.

The provisions of this bill would not be applicable to the reading, storage, use, or disclosure to a third party of a person's identification document or information derived from it in the course of an act of good faith security research, experimentation, or scientific inquiry, including but not limited to activities useful in identifying and analyzing security flaws and vulnerabilities.

This bill would define RFID to mean the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to communicate to or from a tag through a variety of modulation and encoding schemes to uniquely read the identity of a radio frequency tag or other data stored on it.

This bill would make it a crime for any person or entity that knowingly discloses or causes to be disclosed certain operational system keys identified under the Civil Code. The crime established under this bill would be punishable by imprisonment in a county jail for up to one year or a fine of not more than \$1,500 or both.

This bill would exempt certain instances of reading identification documents by RFID for purposes that range from providing medical services to law enforcement efforts. Because the department does not use RFID in its daily operations, these exemptions are not discussed in this analysis. This bill would not impact the Franchise Tax Board's operations or programs.

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